

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

UNITED STATES OF AMERICA)	
)	
v.)	CR. NO. 2:06-cr-200-WHA
)	
ROSA RINCON)	
)	

United States' Response in Opposition to Defendant Rincon's Motion for Leave

The United States opposes Defendant Rosa Rincon's Second Motion for Leave to file Additional Motions and Defenses. Rincon filed the Motion on November 17, 2006—nearly two months after this Court's deadline for filing such a Motion.

In the Order on Arraignment in this case, issued almost three months ago, this Court set the deadline for Motions under Fed. R. Crim. P. 12 for September 22, 2006.¹ Not only did Rincon fail to file the Motion in the time required, but Rincon did not even orally mention that such a Motion or defense was even likely during either her initial appearance on July 14, 2006, her detention hearing on July 21, 2006, her arraignment on September 1, 2006, or her pre-trial hearing on September 24, 2006. Instead, Rincon filed her Motion only last Friday, November 17, 2006, nearly two month late.

¹ See Doc. #39 ("All pretrial motions under Fed.R.Crim.P. 12(b) and (d) 14 and 16, and all notices under Fed. R. Crim. P. 12.1, 12.2, and 12.2 . . . must be filed no later than September 22, 2006.").

This Motion for Leave is vastly different than the one just filed by Ricon's co-defendant, Hector Silva. In Silva's Motion for Leave to File a Motion to Suppress,² Silva noted that his attorney had passed away and that his son had only recently taken the case for his father. In between, Silva had a third attorney, who served for only a brief time. Thus, the delay in filing the Motion to Suppress in that case was warranted, and the United States did not oppose the request. Here, however, Rincon has been represented by the same attorney throughout these proceedings. There has been no justifiable reason for this delay.

The United States therefore asks that this Court deny Rincon's Motion for Leave and disallow the use of any evidence related to her "Notice" of Affirmative Defenses. Such an approach is appropriate in this case. Rincon had every opportunity to file such a motion in time, but did not do so. There is no legal reason to permit her to file it now.

Respectfully submitted this 20th day of November, 2006,

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² Doc. # 65.

CERTIFICATE OF SERVICE

I hereby certify that on November 20, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following: Jay Lewis.

/s/ Christopher Snyder
CHRISTOPHER A. SNYDER
Assistant United States Attorney